

## **“The Greening of Indiana”**

*Remarks to the I.U. Law School Commencement  
May 14, 2006, Indianapolis, Indiana  
Governor Mitchell E. Daniels, Jr.*

The last commencement I attended, happily for this audience, was at Vincennes University. At a school founded by William Henry Harrison and within view of his home, a speaker is reminded that Harrison gave the longest inaugural speech in American history, caught the flu as a consequence, and died a month later. A very useful object lesson, which I intend to apply this afternoon.

Brevity is not the only restraint I intend to exercise. Don't expect any attempts at legal wisdom; although I once earned a law degree of my own, I never succeeded in making that my career. Five hundred years ago, en route to enroll at law school, Martin Luther was nearly killed by a lightning bolt. He promptly decided on another vocation. Were I to pass myself off to you today as a seasoned, skilled attorney, lightning would probably strike again, and justice would be served if the bolt were fatal.

These occasions are rightly called “commencements” to denote that it is beginnings and not conclusions we celebrate. The promising careers commencing here are cause for excitement when imagined one by one. Collectively, they fill us with hope about achievements to come, and hope that some of those achievements might strengthen the state we love.

The black you all wear is, of course, traditional, and I am by nature given to respecting tradition. But, I confess, were I the organizer of today's event, I might have robed you all in a very non-traditional color, namely green.

Green, after all, is the color of spring, of youth, of renewal, and growth. Charged with my current responsibilities, I cannot help but think of the hope many of you represent for a more vibrant, faster-growing, greener Indiana.

Ray Kroc, who gave the world McDonald's and, indirectly, its hundreds of imitators, once said “When you're green, you grow. When you're ripe, you rot.” Now, we use the word “green” to mean “inexperienced”, and ripeness does have its virtues. But Mr. Kroc's admonition is worth contemplating. The American legal system in which you are now credentialed is, to say the least, mature. And this state in which I hope most of you will decide to practice your craft is fully “ripe” compared to many places with which it competes economically.

In many ways, the central question facing our state is whether we can be green again. Whether we can renew and rejuvenate our public institutions, private economy, and personal outlooks so that we welcome and nurture the new, the innovative, the fast-growing.

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At its best, the law is an essential nutrient of growth. The briefest trip to any land where freedom has replaced tyranny suffices to remind that the protection of property and contract rights, and the rule of law generally, are mandatory to the emergence of free markets and the prosperity they bring. Constitutions, and courts with the power to make them real, afford to the individual not merely security but also the confidence to step forward as an innovator, a challenger of received wisdom, a true citizen.

But carried too far, ripened too much, these same institutions can slow down, drag down, even “rot” their societies. It’s a personal view only, but I see only irreversible decline for a Europe where everything from the definition of “chocolate” to the size of condoms, to how long a barmaid is allowed to be out in the sun is now regulated by an overreaching central bureaucracy. Where an encyclopedia of laws protects established businesses against the outside world but simultaneously ossifies them, by impeding the changes and agility that are the hallmark of youthful, “green” organizations.

The scholar Mancur Olson proved objectively that the more developed a system of special interests a country has, the slower its economic progress. Again and again through history, nations with more and stronger “distributional coalitions”, in Olson’s term, sank relative to their rivals where such structures had not yet matured, or, where natural disaster, or war, or foreign occupation had wiped those structures out. Think of Asian economies since World War II, or note the correlation between growth rates and years since statehood here in our own country.

Sometimes, the law and its practitioners become agents or even leaders of such anti-green coalitions. There is a point beyond which the due process without which freedom cannot flourish becomes undue, producing stagnation, the stifling of the new and green, and rot.

At its simplest level, too much legalism extracts its costs in slowness, hobbling the young and swift to the pace of their older competitors. In today’s world, no quality is more important to success than speed. Those who acquire and process information, collaborate to produce new ideas, transform those ideas into new goods or services, and rush them to the marketplace first, are almost invariably rewarded.

For the green among us, waiting on a permit, a government decision, or a legal opinion, can be the most maddening of frustrations. Ask yourself, in a business world where one is often either quick or dead, does billing by the hour still make good sense? Does that system truly align the incentives of the attorney with the interests of the client, or society?

Law and government are too often summoned by the ripe to ward off the green. Litigation can be used as a weapon that wears out or taps out new rivals, imposing costs trivial to the established firm but life-threatening to the small, would-be competitor.

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Government regulation, always presented as protective of public or consumer interests, is often protectionism in masquerade, erecting barriers to entry and locking in advantages to the ripe firms who know how to game the system and have the regulatory experts and legal staffs to do so. Milton Friedman taught that the time to really worry about Big Business is when it gets in cahoots with Big Government. When that happens, an attorney is usually the matchmaker.

By any measure, Indiana is a ripe state. Nearing our third century, we are constitutionally, economically, and demographically showing our age. Our basic law predates the Civil War. Our economic base remains heavily dependent on the manufacturing base of the last century. Not coincidentally, population growth itself is nearly stagnant, and the average age has been rising steadily. There have been too many goodbyes at Hoosier commencements, as well-prepared young minds plan their departures for other, greener pastures.

So the question for Indiana going forward is, will we ripen to the point of rot, or see a new spring of rejuvenation and revival? Those of us who were assigned public duties a year ago believe passionately that the greening of Indiana has begun, and in fact signs of spring are everywhere. 85,000 more Hoosiers are at work than in January 2005. A hot streak of major new investments from life sciences to logistics to information sciences is bringing announcements almost too fast to keep track of. Reformed and restructured government is now an impetus not an impediment to growth.

We can plant the right seeds, but the size of the ultimate harvest will not be up to us. It will depend on those of you we honor today, first on whether you choose our state to plant your own roots, and then on whether you resolve yourselves to become forces for ongoing change and renewal.

I'm sure neither choice is obvious, particularly the second one. As a great philosopher often said, "It's not easy being green." The safest route, and often the best-paying route, is the route of the ripe. Staying the hand of the law (if that old phrase is even used anymore), insisting on process that is due but never undue, purposeful but never ponderous on purpose, will require restraint, and a willingness to challenge established ways.

I can't resist a quick survey. How many graduates expect to make their homes, now or eventually, here in Indiana? How many intend to apply your excellent I.U. education elsewhere?

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To both groups, I wish Godspeed. But to Group A, I say with special fervor, your state needs and welcomes you. We have a chance to build a great state, a leader among the American federation, in both the material wellbeing and the quality of the life our people enjoy. And looking out at you, at all these beautiful green faces, I know with assurance that we will.

I close with a favorite story, of the businessman who sent a colleague flowers on the occasion of the friend's new store opening. On arrival at the site, the sender was appalled to see his flowers right up front with a card that read "Rest in peace."

He promptly placed an enraged complaint call to the florist, who said "Oh, sir, relax. Just think, somewhere in town today, a soul was buried under a sign that said "Good luck in your new location."

And that is what I wish you all now, the best of luck, and the best of lives, wherever your talents and your dreams may take you. And though you will not be forever young, may you be forever and ever green.